IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 3170 of 2005

Between:

E.Laxman, E.281276, S/o.Pullaiah,
Jadcharla, Mahaboobnagar Dist.

..... PETITIONER

AND

The Depot Manager, APSRTC, Gadwal, Mahaboobnagar Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or directions more in the nature of writ of Mandamus, declaring the office order dated: 15-7-1997as illegal and arbitrary and set aside the same with all consequential benefits including arrears.

Counsel for the Petitioner:MR.P.GOVINDA RAJULU
Counsel for the Respondent: MR.P.VINAYAKA SWAMY (SC FOR APSRTC)

The Court at the admission stage made the following :

ORDER:

The petitioner is working as a driver in the respondent-Corporation. On 13-3-1997, the respondent-Corporation had issued a charge memo to the petitioner on the allegation that he committed irregularities while he was on duty on 23-2-1997.

After submitting his explanation, the respondent-Corporation passed the impugned order dated 15-7-1997 imposing punishment of withholding of annual increment, which falls next due, for a period of one year which shall have an effect of postponing his future increments. The petitioner questioned the impugned order on the ground that though the reduction of annual increment with cumulative effect is a major penalty, the respondent-Corporation passed the impugned order without conducting any enquiry as required under the rules and regulations. Therefore, the order is illegal and it is liable to be set aside.

2. The learned counsel for the petitioner relied on a judgment of the Supreme Court in KULWANT SINGH GILL V. STATE OF PUNJAB[1] wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without any enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

3. The petitioner after receiving the adverse orders slept over the matter for a period of nearly 5 years. There are latches on his part in asserting his right regarding this issue. Though the impugned order is liable to set aside on account of long lapse of time, in view of the judgment of the Supreme Court in KULWANT SINGH GILL (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of one annual increment without cumulative effect, the petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of one annual increment without cumulative effect.

4. The Writ Petition is accordingly disposed of with the above observations. No costs.

22-02-2005

To

1. The Depot Manager, APSRTC, Gadwal, Mahaboobnagar Dist.
2. Two C.D. copies.

sj